§ 2174; CODE OF TENN., 1896, § 4186. That the terms "negro" and "colored person" have been regarded as interchangeable in Virginia is due to the narrow statutory definition of the latter term in that state — "a person with one-fourth or more of negro blood." CODE OF VA., 1873, c. 103, § 2; *Jones* v. *Commonwealth*, 80 Va. 538. The case is not weakened by the court's admission that in ordinary social regulations the word "negro" might receive a different interpretation. *Cf.* PEN. CODE TEX., 1895, §§ 347, 1010. The decision, furthermore, is sustained by the rule that penal statutes are to be construed strictly in favor of the accused. See ENDLICH, INTERPRETATION OF STATUTES, §§ 329–339.

TENANCY IN COMMON — POSSESSION BY ONE TENANT: LIABILITY TO CO-TENANTS FOR USE AND OCCUPATION. — In partition proceedings between tenants in common, a claim for rent was made against one of the parties, who had occupied the premises alone, but without unlawful exclusion of his co-tenants, and under no agreement as to rent. *Held*, that the claim should be denied. *Field* v. *Field*, 8 East. L. Rep. 374 (Prince Ed. Is., Ct. Ch.).

At common law, if one tenant in common occupied all the land, a co-tenant had no remedy unless he had been ejected or had appointed the other his bailiff. COKE LIT. 199 b. By statute of 4 Anne, c. 16, § 27, an action was allowed against a co-tenant "for receiving more than comes to his just share or proportion." But as construed in England and some states, this applies only when rent or other profit is received from a third person. *Henderson* v. *Eason*, 17 Q. B. 701; *Badger* v. *Holmes*, 72 Mass. 118. The decision in the principal case is in accord with the prevailing view. *Israel* v. *Israel*, 30 Md. 120; *Reynolds* v. *Milmeth*, 45 Ia. 693. But by statute in some states, and by judicial decision in others, a sole occupying tenant is liable for use and occupation. R. I. GEN. LAWS, 1909, c. 337, § 1; *Gage* v. *Gage*, 66 N. H. 282. Considerations of fairness commend this result. According to the legal conception of tenancies in common, however, each co-tenant has a right to every part of the common property. If one is left in sole possession, therefore, he does not exceed his rights in occupying the whole.

TRADE SECRETS — REMEDIES FOR DIVULGENCE. — The plaintiff, who owned a secret formula for making medicine, agreed to tell the secret to the defendant and to use the medicine in his sanitarium. In return the defendant promised to keep the formula secret and to pay the plaintiff certain wages and a commission. The defendant divulged the formula. *Held*, that the plaintiff can recover in tort. *Roystone* v. *Woodbury Institute*, 67 N. Y. Misc. 265 (Sup. Ct.).

The duty to refrain from divulging trade secrets is imposed by law as an incident to any confidential relationship. *Morison* v. *Moat*, 9 Hare 241; *Abernethy* v. *Hutchinson*, 3 L. J. Ch. 209, 219. An express promise of secrecy would seem but an iteration of the duty already existing, and of itself, therefore, no legal consideration to support a promise in return. See *Thum Co.* v. *Tloczynski*, 114 Mich. 149, 157. But if there is further and sufficient consideration, a contract of secrecy gives but an alternative remedy. *Peabody* v. *Norfolk*, 98 Mass. 452, 460. See MECHEM, AGENCY, § 476. From the nature of the right protected, relief is generally sought in equity. The failure of the courts to point out clearly whether the basis of equitable relief is by way of injunction to prevent a breach of the relational duty, or of specific performance of the valid contract between the parties, has led to confusion as to the nature of the right. *Morison* v. *Moat*, *supra*. See 11 HARV. L. REV. 262; 20 *id.* 143. The main case recognizes that the right does not necessarily rest upon contract, but exists as an incident to a confidential relationship.

WATERS AND WATERCOURSES — TIDAL WATERS — RIGHT OF FEDERAL GOVERNMENT TO IMPROVE NAVIGATION. — The defendant was under con-

tract with the United States government to dredge a channel in navigable waters. The submerged land, title to which was derived from an early colonial patent, had been leased to the plaintiff, and was being used by it as an oyster bed. *Held*, that the defendant cannot be restrained from proceeding under his contract, and that the plaintiff is not entitled to compensation. *Lewis Blue Point Oyster Cultivation Co.* v. *Briggs*, 91 N. E. 846 (N. Y.).

The title conveyed by the early grant from the king under which the plaintiff claimed was necessarily subject to the public right of navigation. See HALE, DE JURE MARIS, 1 HARGRAVE'S TRACTS, 36. The government of the United States succeeded to the control of navigation, hence all submerged land is held subject to this servitude. *Gibson* v. *United States*, 166 U. S. 269. It follows that there is no taking of property entitling to compensation, if, in the exercise of this right, the flow of the water is diverted, or its level raised so as to diminish the value of the land. *South Carolina* v. *Georgia*, 93 U. S. 4; *Crocker* v. *Champlin*, 202 Mass. 437. It is also generally held that the government may use even the submerged land itself to accomplish its purpose. *South Carolina* v. *Georgia*, *supra*. Such cases, however, could usually be based on the rule "*de minimis non curat lex*. See *Bent* v. *Emory*, 173 Mass. 495. But on the theory that the right to improve navigation necessarily includes the right to use the submerged land itself for that purpose, the weight of authority holds in accordance with the principal case that the rule as to compensation is the same even when substantial damage is done. *Lane* v. *Smith*, 71 Conn. 65. *Contra*, *Bent* v. *Emory*, *supra*.

BOOK REVIEWS.

INTERNATIONAL LAW. By George Grafton Wilson and George Fox Tucker. Fifth edition. New York: Silver, Burdett and Company, 1910. pp. xix, 505.

HANDBOOK OF INTERNATIONAL LAW. By George Grafton Wilson. St. Paul: West Publishing Company. 1910. pp. xxiii, 623.

These two books, largely by the same author, present the elementary doctrines of international law briefly and adequately. Each volume gives in an appendix the more important documents, from the Declaration of Paris, 1856, to the Declaration of London, 1909, including the Hague Conventions of 1907. In selection and order of topics treated in the text, the two works resemble each other. The chief diversity is that the larger volume gives rather numerous extracts from treaties and judicial opinions.

As international law still stands outside the ordinary lawyer's circle of studies, and must continue so to stand as long as its doctrines are indefinite or are not cognizable in national courts or in international tribunals of a distinctly judicial nature, the lawyer's chief interest in these volumes, which exhibit the subject in its latest development, is to ascertain to what extent international law has now become lawyer's law. The larger work, by presenting the leading principles in blackletter type, facilitates this inquiry, and seems to indicate that at least one-fifth of the subject has reached a condition which a lawyer must concede to be within the jurisdiction of lawyers and of courts.

Perhaps it will be well to give examples. A principle which cannot be called lawyer's law, but which must be stated in a treatise on international law, is: "The breaking of diplomatic relations is an evidence of strained relations between states, and is often the step preceding war." (Handbook, 229.) An example of a principle which any lawyer would call a proposition of law is: